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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,458	12/21/2001	Eldridge R. Byron	SPE-33	1519

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SQUARE D COMPANY  
1415 South Roselle Road  
Palatine, IL 60067

EXAMINER
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EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/027,458	<b>Applicant(s)</b> BYRON ET AL.	
	<b>Examiner</b> Joseph F Edell	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,8-17,20 and 28-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,8-17,20 and 28-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

Upon consideration of the remarks in Appeal Brief filed 10 February 2005, the final rejection mailed 09 September 2004 has been withdrawn.

### ***Claim Objections***

1. Claims 12, 16, 20, and 29-32 are objected to because of the following informalities:

- a. claim 12, line 4; claim 16, line 6; claim 30, line 4; and claim 31, line 8, "a first surface" should read --a first surface and a second surface--;
- b. claim 20, line 9; claim 29, line 11; and claim 32, line 13, "sheer" should read --shear--;
- c. claim 20, line 7 and line 8, "a least one" should read --at least one--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,064,439 to McWhirter.

McWhirter discloses a cabinet that includes all the limitations recited in claim 16. McWhirter shows a cabinet having a plurality of walls 2,3,49 (Fig. 4), a roof panel 4 (Fig. 3) connected to the walls, a floor panel 1 (Fig. 3) connected to the walls, an opening (Fig. 4) bounded by a first edge (Fig. 14) of one of the walls and by a second edge (Fig. 12) of another one of the walls, an access panel 8 (Fig. 4) having a first surface (Fig. 4), a first panel edge 63 (Fig. 14) with a first protruding member 63a (Fig. 14) extending toward the first edge, and a second panel edge 62 (Fig. 12) with a second protruding member 62a (Fig. 12) extending toward the second edge, a first resilient seal 15 (Fig. 14) disposed between the first surface of the access panel and the first edge, and a second resilient seal 15 (Fig. 12) disposed between the second surface of the access panel and the second edge.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over McWhirter in view of U.S. Patent No. 2,482,983 to Lambert.

McWhirter discloses a cabinet that is basically the same as that recited in claims 1, 9, and 10 except that the cabinet lacks the specific first member, second member, and channel configuration, as recited in the claims. See Figures 1-15 of McWhirter for

McWhirter, as modified, discloses a cabinet that is basically the same as that recited in claims 8 and 17 except that the cabinet lacks a plurality of latch hooks and a strike assembly, as recited in the claims. See Figures 1-3 of McWhirter for the teaching that the cabinet has a latching mechanism 47 (Fig. 1). Hauserman et al. disclose a cabinet similar to that of McWhirter wherein the cabinet has a door 35 (Fig. 1) and a latching mechanism (Fig. 7) including a plurality of latch hooks 42,46 (Fig. 7) and a strike assembly (Fig. 10) receiving the latch hooks. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the cabinet of McWhirter such that the cabinet has a latching mechanism including a plurality of latch hooks and a strike assembly receiving the latch hooks, such as the cabinet disclosed in Hauserman et al. One would have been motivated to make such a modification in view of the suggestion in Hauserman et al. that the latching mechanism with latch hooks and a strike assembly provide a cabinet that is difficult to force or break open.

7. Claims 11, 12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over McWhirter, as modified, in view of Hauserman et al. as applied to claims 8 and 17 above, and further in view U.S. Patent No. 5,767,440 to of Byron et al.

McWhirter, as modified, discloses a cabinet that is basically the same as that recited in claims 11, 12, and 15 except that the cabinet lacks a flap covering the exhaust vent and the recited opening and access panel configuration, as recited in the claims. See Figure 3 of McWhirter for the teaching that the cabinet has a baffle 70,71 (Fig. 3) connected to at least two walls. Byron et al. show a cabinet similar to that McWhirter

the teaching that the cabinet has an exhaust vent 41 (Fig. 1), a door 6 (Fig. 1), a first member (Fig. 15) disposed parallel to one of the walls, a hinge (Fig. 15) connecting the door to the wall, a channel (Fig. 15), and a resilient seal 15 (Fig. 15). Lambert shows a wall and door configuration similar to that of McWhirter wherein the configuration has a door 13 (Fig. 1), a first member 17 (Fig. 1), a second member 11 (Fig. 1) connected to the first member, a hinge 10,12 (Fig. 1) connecting the door to the second member, a channel 15 (Fig. 1) attached to the door and extending the hinge and capable of receiving an edge (Fig. 1) of the first member wherein the edge is opposite the second member, and a resilient seal 16 (Fig. 1) disposed between the edge and the channel. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cabinet of McWhirter such that the first member is connected to one of the walls via a second member, the hinge connects the door to one of the second member, the channel is attached to the door and extends over the hinge and is capable of receiving the edge of the first member wherein the edge is opposite the second member, and the resilient seal is disposed between the edge and the channel, such as the wall and door configuration disclosed in Lambert. One would have been motivated to make such a modification in view of the suggestion in Lambert that the hinge structure allows for equalizing pressure on gaskets of the door to tightly close the door making it water-tight and air-tight.

6. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McWhirter in view of Lambert as applied to claims 1, 9, and 10 above, and further in view of 1,371,482 to Hauserman et al.

wherein the cabinet has an exhaust vent (Fig. 7) and a flap 66 (Fig. 6) covering the exhaust vent, as well as an opening (Fig. 3) bounded by first and second inwardly turned edges, an access panel 32 (Fig. 3) with first and second outwardly turned panel edges 46 (Fig. 3) with respective first and second protruding members (Fig. 3).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the cabinet of McWhirter such that the cabinet has a flap covering the exhaust vent, the opening has first and second inwardly turned edges of the walls, the access panel has first and second outwardly turned panel edges with first and second protruding members extending toward the first and second inwardly turned edges, the first resilient seal is disposed between the first surface of the access panel and the first inwardly turned edge, and the second resilient seal disposed between the second surface of the access panel and the second inwardly turned edge, such as the cabinet disclosed in Byron et al. One would have been motivated to make such a modification in view of the suggestion in Byron et al. that the flap prevents environmental elements to enter the cabinet during normal function.

8. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over McWhirter, as modified, in view of Byron et al. as applied to claims 11, 12, and 15 above, and further in view of U.S. Patent No. 1,299,232 to Rosenberg.

McWhirter, as modified, discloses a cabinet that is basically the same as that recited in claims 13 and 14 except that the walls lack dimples, as recited in the claims. See Figures 1-5 of McWhirter for the teaching that the walls and other structural members have apertures with bolt fasteners disposed in the apertures. Rosenberg

shows apertures and panels similar to that of McWhirter wherein the walls panels 4,5 (Fig. 4) have mating dimples 4,5, (Fig. 4) with centrally defined apertures (Fig 4) such that the apertures in the dimples are in register with one another, and fasteners 1 (Fig. 6) disposed in the register apertures. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the cabinet of McWhirter such that the walls and structural members have dimples adapted to mate with one another, the apertures are centrally defined in each of the dimples such that the apertures in the dimples of walls and structural members are registered with one another, and the fasteners are disposed in the registered apertures of the dimples, such as the apertures and panels disclosed in Rosenberg. One would have been motivated to make such a modification in view of the suggestion in Rosenberg that the dimples with registered fasteners eliminates the need for a nut and remains tight during vibrations and through changes in temperature.

9. Claims 16 and 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Byron et al. in view of McWhirter.

Byron et al. disclose a cabinet that is basically the same as that recited in claims 16 and 31 except that the access panel lacks resilient seals, as recited in the claim. See Figures 1-7 of Byron et al. for the teaching that the cabinet has a plurality of walls 28 (Fig. 3), a roof panel 18 (Fig. 2) connected to the walls, a floor panel 30 (Fig. 3) connected to the walls, an opening (Fig. 3) bounded by a first inwardly turned edge (Fig. 3) of one of the walls and by a second inwardly turned edge (Fig. 3) of another one of the walls, and an access panel 32 (Fig. 3) having a first surface (Fig. 3), a first outwardly



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turned panel edge 46 (Fig. 3) with a first protruding member (Fig. 3) extending toward the first inwardly turned edge, and a second outwardly turned panel edge 46 (Fig. 3) with a second outwardly turned protruding member (Fig. 3) extending toward the second edge. McWhirter shows a cabinet similar to that of Byron et al. wherein the cabinet has an opening (Fig. 4) with first and second edges (Figs. 4), an access panel 8 (Fig. 4) with first and second surfaces (Fig. 4), and first and second resilient seals 15 (Figs. 12 and 14) disposed between the first and second surfaces of the access panel and the first and second edges of the opening. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cabinet of Byron et al. such that the cabinet has a first resilient seal disposed between the first surface of the access panel and the first inwardly turned edge as well as a second resilient seal disposed between the second surface of the access panel and the second inwardly turned edge, such as the cabinet disclosed in McWhirter. One would have been motivated to make such a modification in view of the suggestion in McWhirter resilient seals provide a waterproof sealing between the walls and access panel.

10. Claims 20, 28, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,574,624 to Rennie et al. in view of Rosenberg.

Rennie et al. disclose a cabinet that is basically the same as that recited in claims 20, 28, and 32 except that the walls and baffle lack dimples, as recited in the claims. See Figures 1-10 of Rennie et al. for the teaching that the cabinet has a plurality of structural members (Fig. 1), a plurality of walls (Fig. 1), a roof panel (Fig. 1)

connected to the walls, a floor panel (Fig. 2) connected to the walls, a baffle (Fig. 3), and apertures with bolt fasteners disposed in the apertures (see column 4, lines 41-50) that mate the walls and the baffle. Rosenberg shows apertures and panels similar to that of McWhirter wherein the walls panels 4,5 (Fig. 4) have mating dimples 4,5, (Fig. 4) with centrally defined apertures (Fig 4) such that the apertures in the dimples are in register with one another, and fasteners 1 (Fig. 6) disposed in the register apertures. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cabinet of Rennie et al. such that the walls, the panels, and the baffle have dimples adapted to mate with one another, the apertures are centrally defined in each of the dimples such that the apertures in the dimples of walls, panels, and baffle are registered with one another, and the fasteners are disposed in the registered apertures of the dimples, such as the apertures and panels disclosed in Rosenberg. One would have been motivated to make such a modification in view of the suggestion in Rosenberg that the dimples with registered fasteners eliminates the need for a nut and remains tight during vibrations and through changes in temperature.

11. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Byron et al. in view of McWhirter as applied to claims 16 and 31 above, and further in view of Rosenberg.

Byron et al., as modified, disclose a cabinet that is basically the same as that recited in claims 29 and 30 except that the walls lack dimples, as recited in the claims. See Figures 1-6 of Byron et al. for the teaching that the walls have a plurality of

fastening devices 22 (Fig. 1) and apertures 58 (Fig. 3). Rosenberg shows apertures and panels similar to that of McWhirter wherein the walls panels 4,5 (Fig. 4) have mating dimples 4,5, (Fig. 4) with centrally defined apertures (Fig 4) such that the apertures in the dimples are in register with one another, and fasteners 1 (Fig. 6) disposed in the register apertures. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the cabinet of Rennie et al. such that the walls have dimples adapted to mate with one another, the apertures are centrally defined in each of the dimples, and the fasteners are disposed in the apertures of the dimples, such as the apertures and panels disclosed in Rosenberg. One would have been motivated to make such a modification in view of the suggestion in Rosenberg that the dimples with registered fasteners eliminates the need for a nut and remains tight during vibrations and through changes in temperature.

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 1, 8-17, 20, and 28-32 have been considered but are moot in view of the new ground(s) of rejection. With respect to Applicant's remarks regarding the cabinet of McWhirter as not intended for being subject to any type of arcing, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. The cabinet of McWhirter is capable of enclosing a controller that may produce arc gases. Therefore, the cabinet of McWhirter meets the limitations as recited above. Examiner will favorably

consider claims 1, 11, and 17 including the limitation --whereby the channel is forced toward the edge of the first member due to arc gasses produced during arcing--.

***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joe Edell  
April 18, 2005